

Remarks

Reconsideration of this Application is respectfully requested.

Based on the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Applicant's representative thanks the Examiner for the courtesies extended during the telephonic interview on July 18, 2006. During this call, Applicant's representative presented arguments rebutting the position that outwardly curving flanges would have been an obvious design choice, stating reasons why the outwardly curving flanges provide an advantage and are used for a particular purpose, as discussed in detail below. Applicant's representative also presented arguments rebutting the rejection of the claims using U.S. Patent No. 5,549,406 to Cohen, stating that Cohen is nonanalogous art, as discussed in detail below. The Examiner requested that Applicant file a response to the outstanding Office Action so that the Examiner could more fully consider the arguments.

Objection to the Drawings

The drawings are objected to under 37 CFR 1.84(b), requiring drawings of photographs in Figures 6-10.

Replacement drawings of Figures 6-10 are concurrently filed herewith. No new matter has been added. Accordingly, Applicant respectfully requests that this objection be withdrawn.

Rejection of Claims 1-9, 18-24, 26 and 27 under 35 U.S.C. § 103(a) over Kaufman

Claims 1-4, 8, 18-20, 23, 24, 26 and 27 have been rejected under 35 U.S.C. § 103(a) as being obvious over Kaufman *et al.* (U.S. Patent No. 2,809,004; hereinafter Kaufman). Claims 5-7, 21 and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaufman in view of Trumbull (U.S. Patent No. 4,991,801). Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaufman in view of Krillenberger (U.S. Patent No. 5,307,543). Applicant traverses these rejections.

Claims 1, 18 and 23 recite that a distal end of the first arm forms a first inward curve and "then extends outwardly and curves away from said first inward curve at an acute angle to form a first flange." Claims 1, 18 and 23 also recite that a distal end of the second arm forms a second inward curve and "then extends outwardly and curves away from said second inward curve at an acute angle to form a second flange."

As noted by the Examiner at page 3 of the Office Action, Kaufman does not disclose or suggest these features. The Examiner concludes that it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide outwardly curving flanges with a distal end in close proximity to an inward curve to the arms of Kaufman, absent any disclosure that the flanges provide an advantage, are used for a particular purpose or solve a stated problem.

However, the shape of the arms is not merely a matter of obvious design choice because the claimed arms with distal ends that extend outwardly and curve away from an inward curve at an acute angle to form a flange do provide an advantage and are utilized for a particular purpose. The claimed flanges provide an advantage over the blunt ends of lips 7 in Kaufman as the flanges prevent scraping of the device against the blunt ends

when inserting the device into the article for holding the device. In addition, the claimed flanges are utilized for the particular purpose of aiding in the removal of the device from the article for holding the device. The flanges provide a surface for a person's fingers to apply pressure to spread the arms apart to facilitate removal of the device. The flanges also have the advantage over blunt edges in that pressing the flanges is less painful to the fingers than pressing against a blunt edge.

Therefore, the claimed features that the distal ends of the arms extend outwardly and curve away from an inward curve at an acute angle to form a flange are not merely obvious design choices. The claimed features provide an advantage over Kaufman and are used for a particular purpose. The claimed features are not merely obvious design choices and therefore there, is no *prima facie* case of obviousness.

Accordingly, for at least the above reasons, independent claims 1, 18 and 23 and claims 2-9, 19-22, 24, 26 and 27 which depend therefrom, are patentable. Applicant respectfully requests that these rejections be withdrawn.

Rejection of Claims 23 and 27 under 35 U.S.C. § 103(a) over Naylor

Claims 23 and 27 have been rejected under 35 U.S.C. § 103(a) as being obvious over Naylor (U.S. Patent No. 5,678,204). Applicant traverses this rejection.

Claim 23 recites that a distal end of the first arm forms a first inward curve and "then extends outwardly and curves away from said first inward curve at an acute angle to form a first flange." Claim 23 also recites that a distal end of the second arm forms a second inward curve and "then extends outwardly and curves away from said second inward curve at an acute angle to form a second flange."

As noted by the Examiner at page 4 of the Office Action, Naylor does not disclose or suggest these features. The Examiner concludes that it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide outwardly curving flanges with a distal end in close proximity to an inward curve to the arms of Naylor, absent any disclosure that the flanges provide an advantage, are used for a particular purpose or solve a stated problem.

However, the shape of the arms is not merely a matter of obvious design choice because the claimed arms with distal ends that extend outwardly and curve away from an inward curve at an acute angle to form a flange do provide an advantage and are utilized for a particular purpose. The claimed flanges provide an advantage over the blunt ends in Naylor as the flanges prevent scraping of the device against the blunt ends when inserting a device into the article for holding the device. In addition, the claimed flanges are utilized for the particular purpose of aiding in the removal of the device from the article for holding the device. The flanges provide a surface for a person's fingers to apply pressure to spread the arms apart to facilitate removal of the device. The flanges also have the advantage over blunt edges in that pressing the flanges is less painful to the fingers than pressing against a blunt edge.

Therefore, the claimed features that the distal ends of the arms extend outwardly and curve away from an inward curve at an acute angle to form a flange are not merely obvious design choices. The claimed features provide an advantage over Naylor and are used for a particular purpose. The claimed features are not merely obvious design choices and therefore there is no *prima facie* case of obviousness.

Accordingly, for at least the above reasons, claim 23 and claim 27 which depends therefrom, is patentable. Applicant respectfully requests that this rejection be withdrawn.

Rejection of Claims 10, 12-17 and 25 under 35 U.S.C. § 103(a) over Errichiello in view of Genzel

Claims 10, 12, 13, 16 and 25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Errichiello (U.S. Patent No. 4,306,737) in view of Genzel (U.S. Patent No. 5,140,723). Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Errichiello in view Genzel, and further in view of Corey (U.S. Patent No. 5,059,051). Claim 17 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Errichiello in view Genzel, and further in view of Krillenberger. Applicant traverses these rejections.

Claim 10 recites that a distal end of the first arm forms a first inward curve and "then extends outwardly and curves away from said first inward curve at an acute angle to form a first flange." Claim 10 also recites that a distal end of the second arm forms a second inward curve and "then extends outwardly and curves away from said second inward curve at an acute angle to form a second flange."

As noted by the Examiner at page 6 of the Office Action, Errichiello and Genzel do not disclose or suggest these features. The Examiner concludes that it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide outwardly curving flanges with a distal end in close proximity to an inward curve to the arms of Errichiello, absent any disclosure that the flanges provide an advantage, are used for a particular purpose or solve a stated problem.

However, the shape of the arms is not merely a matter of obvious design choice because the claimed arms with distal ends that extend outwardly and curve away from an inward curve at an acute angle to form a flange do provide an advantage and are utilized for a particular purpose. The claimed flanges provide an advantage over the blunt ends in Errichiello as the flanges prevent scraping of the device against the blunt ends when inserting a device into the article for holding the device. In addition, the claimed flanges are utilized for the particular purpose of aiding in the removal of the device from the article for holding the device. The flanges provide a surface for a person's fingers to apply pressure to spread the arms apart to facilitate removal of the device. The flanges also have the advantage over blunt edges in that pressing the flanges is less painful to the fingers than pressing against a blunt edge.

Therefore, the claimed features that the distal ends of the arms extend outwardly and curve away from an inward curve at an acute angle to form a flange are not merely obvious design choices. The claimed features provide an advantage over Errichiello and are used for a particular purpose. The claimed features are not merely obvious design choices and therefore there is no *prima facie* case of obviousness.

Accordingly, for at least this reason, independent claim 10, and claims 12-17 and 25 which depend therefrom, are patentable. Applicant respectfully requests that these rejections be withdrawn.

Rejection of Claims 1-9, 18-24, 26 and 27 under 35 U.S.C. § 103(a) over Kaufman in view of Cohen

Claims 1-4, 8, 18-20, 23, 24, 26 and 27 have been rejected under 35 U.S.C. § 103(a) as being obvious over Kaufman in view of Cohen (U.S. Patent No. 5,549,046)

Claims 5-7, 21 and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaufman in view of Cohen and further in view of Trumbull (U.S. Patent No. 4,991,801). Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kaufman in view of Cohen and further in view of Krillenberger (U.S. Patent No. 5,307,543). Applicant traverses these rejections.

Claims 1, 18 and 23 recite that a distal end of the first arm forms a first inward curve and "then extends outwardly and curves away from said first inward curve at an acute angle to form a first flange." Claims 1, 18 and 23 also recite that a distal end of the second arm forms a second inward curve and "then extends outwardly and curves away from said second inward curve at an acute angle to form a second flange."

As noted by the Examiner at page 8 of the Office Action, Kaufman does not disclose or suggest these features. Cohen discloses a page lifter clip 10 can have distal arms 14 that terminate with two curved ends 16 that curve inward and downward toward proximal arms 13 or that terminate with blunt ends (see col. 2, lines 42-46; Fig. 1). The Examiner relies on this as teaching the equivalency of distal arms that end in blunt ends and distal arms that have outward curving flanges and as a suggestion of the obviousness of substituting one for the other in the holder of Kaufman.

The combination of Kaufman and Cohen does not present a *prima facie* case of obviousness because Cohen is nonanalogous art. Kaufman is directed to a holder 28 that has side sections 20 that end with flared lips 7. A component is removably held in the holder 28 between the two side sections 20. However, Cohen has a completely different function. The arms 13, 14 do not function to receive and hold anything, rather they function to support loose leaf paper and allow the paper to rest on the arms (see col. 2,

lines 54-59; Figs. 4-5). Cohen is nonanalogous art in relation to Kaufman and accordingly any suggestion in Cohen of the equivalence of distal arms ending in blunt ends or curving inward and downward is directed to arms that support an object or arms upon which an object is to rest and not to the arms taught in Kaufman that receive and hold an object therebetween.

In addition, Cohen does not suggest the claimed arms, each with a distal end that extends outwardly and curves away from an inward curve at an acute angle to form a flange. Rather, Cohen teaches distal arms that terminate with curved ends that curve inward and downward at an obtuse angle (see Fig. 1). There is no suggestion in Cohen for the arms to extend outwardly and curve away from an inward curve at an acute angle to form a flange. The Examiner has failed to establish a *prima facie* case of obviousness.

Accordingly, for at least the above reasons, independent claims 1, 18 and 23 and claims 2-9, 19-22, 24, 26 and 27 which depend therefrom, are patentable. Applicant respectfully requests that these rejections be withdrawn.

Rejection of Claims 23 and 27 under 35 U.S.C. § 103(a) over Naylor in view of Cohen

Claims 23 and 27 have been rejected under 35 U.S.C. § 103(a) as being obvious over Naylor in view of Cohen. Applicant traverses this rejection.

Claim 23 recites that a distal end of the first arm forms a first inward curve and "then extends outwardly and curves away from said first inward curve at an acute angle to form a first flange." Claim 23 also recites that a distal end of the second arm forms a second inward curve and "then extends outwardly and curves away from said second inward curve at an acute angle to form a second flange."

As noted by the Examiner at page 10 of the Office Action, Naylor does not disclose or suggest these features. Cohen discloses a page lifter clip 10 can have distal arms 14 that terminate with two curved ends 16 that curve inward and downward toward proximal arms 13 or that terminate with blunt ends (see col. 2, lines 42-46; Fig. 1). The Examiner relies on this as teaching the equivalency of distal arms that end in blunt ends and distal arms that have outward curving flanges and as a suggestion of the obviousness of substituting one for the other in the holder of Naylor.

The combination of Naylor and Cohen does not present a *prima facie* case of obviousness because Cohen is nonanalogous art. As shown in FIG. 4 of Naylor, the cover 10 has first and second sides 20, 22 having inward curves, but the sides do not curve away from the inward curves at an acute angle to form flanges. The cover removably holds a device between the two side sections 20. However, Cohen has a completely different function. The arms 13, 14 do not function to receive and hold anything, rather they function to support loose leaf paper and allow the paper to rest on the arms (see col. 2, lines 54-59; Figs. 4-5). Cohen is nonanalogous art in relation to Naylor and accordingly any suggestion in Cohen of the equivalence of distal arms ending in blunt ends or curving inward and downward is directed to arms that support an object or arms upon which an object is to rest and not to the arms taught in Naylor that receive and hold an object therebetween.

In addition, Cohen does not suggest the claimed arms, each with a distal end that extends outwardly and curves away from an inward curve at an acute angle to form a flange. Rather, Cohen teaches distal arms that terminate with curved ends that curve inward and downward at an obtuse angle (see Fig. 1). There is no suggestion in Cohen

for the arms to extend outwardly and curve away from an inward curve at an acute angle to form a flange. The Examiner has failed to establish a *prima facie* case of obviousness.

Accordingly, for at least the above reasons, independent claim 23 and claim 27 which depends therefrom, are patentable. Applicant respectfully requests that this rejection be withdrawn.

Rejection of Claims 10, 12-17 and 25 under 35 U.S.C. § 103(a) over Errichiello in view of Genzel and Cohen

Claims 10, 12, 13, 16 and 25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Errichiello in view of Genzel and Cohen. Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Errichiello in view Genzel and Cohen, and further in view of Corey (U.S. Patent No. 5,059,051). Claim 17 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Errichiello in view Genzel and Cohen, and further in view of Krillenberger. Applicant traverses these rejections.

Claim 10 recites that a distal end of the first arm forms a first inward curve and "then extends outwardly and curves away from said first inward curve at an acute angle to form a first flange." Claim 10 also recites that a distal end of the second arm forms a second inward curve and "then extends outwardly and curves away from said second inward curve at an acute angle to form a second flange."

As noted by the Examiner at page 12 of the Office Action, Errichiello and Genzel do not disclose or suggest these features. Cohen discloses a page lifter clip 10 can have distal arms 14 that terminate with two curved ends 16 that curve inward and downward toward proximal arms 13 or that terminate with blunt ends (see col. 2, lines 42-46; Fig.

1). The Examiner relies on this as teaching the equivalency of distal arms that end in blunt ends and distal arms that have outward curving flanges and as a suggestion of the obviousness of substituting one for the other in the holder of Errichiello.

The combination of Errichiello, Genzel and Cohen does not present a *prima facie* case of obviousness because Cohen is nonanalogous art. As shown FIG. 2 of Errichiello, the holder has pairs of ribs 52, 54 with inward curves and lips 60. A component is removably held in the holder between the pair of ribs 52, 54. However, Cohen has a completely different function. The arms 13, 14 do not function to receive and hold anything, rather they function to support loose leaf paper and allow the paper to rest on the arms (see col. 2, lines 54-59; Figs. 4-5). Cohen is nonanalogous art in relation to Errichiello and accordingly any suggestion in Cohen of the equivalence of distal arms ending in blunt ends or curving inward and downward is directed to arms that support an object or arms upon which an object is to rest and not to the arms taught in Errichiello that receive and hold an object therebetween.

In addition, Cohen does not suggest the claimed arms, each with a distal end that extends outwardly and curves away from an inward curve at an acute angle to form a flange. Rather, Cohen teaches distal arms that terminate with curved ends that curve inward and downward at an obtuse angle (see Fig. 1). There is no suggestion in Cohen for the arms to extend outwardly and curve away from an inward curve at an acute angle to form a flange. The Examiner has failed to establish a *prima facie* case of obviousness.

Accordingly, for at least the above reasons, independent claim 10 and claims 12-17 and 25 which depend therefrom, are patentable. Applicant respectfully requests that these rejections be withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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